

Connecticut Republicans

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September 23, 1998

BEFORE THE FEDERAL ELECTION COMMISSION

Friends of Jim Maloney Committee)

FEC ID Number C00327924)

Jim Maloney)

Barbara Kennelly)

MUR # 4814

COMPLAINT

The Connecticut Republican State Central Committee, by and through its Chairman, Chris DePino, brings this complaint pursuant to 2 U.S.C. § 437g(a)(1). The Connecticut Republican State Central Committee may be reached at 97 Elm Street, Hartford, CT 06106.

I. SUMMARY

Once again, Jim Maloney is taking illegal political contributions. In 1996 Maloney accepted \$37,000 in funds illegally laundered through straw donors by his brother. This year Maloney has unlawfully received \$132,025.45 towards his primary election effort – 209 separate contributions and counting – even though the primary election date has already passed. Federal law prohibits candidates from accepting contributions for prior elections – as the Commission specifically told Maloney in 1996. Maloney is the only federal candidate in Connecticut failing to obey this basic rule.

The Democratic Congressional Campaign Committee characterized this scheme as “an obvious evasion of the FECA’s contribution limitations” in 1984 – and the FEC found “reason to believe” actions identical to Maloney’s violate federal law. In 1996 a federal judge fined a campaign \$15,000 for a similar contrivance. Finally, Maloney received an unlawfully excessive contribution from Barbara Kennelly, who gave twice the legal limit through her federal campaign committee to both Maloney and California Congresswoman Loretta Sanchez. The Commission should act swiftly and consistent with these historical precedents to put a stop to Maloney and Kennelly’s malfeasance.

II. THE LAW

Under the Federal Election Campaign Act (the "Act"), federal candidates can only accept contributions for elections in advance of those elections. *11 C.F.R. § 110.1(b)(3)(i) (attached)*. Contributions may not be applied towards prior elections or election cycles unless the campaign has net debts outstanding from the prior election. *Id.* Undesignated contributions count towards the next upcoming election.

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In Connecticut, state political party conventions, which have the authority to select nominees for federal office on behalf of that party, are considered the "primary" election for contribution limit purposes. *See FEC Advisory Opinions 1976-58 and 1982-49 (attached)*. Where candidates are endorsed for the general election at such conventions, there are no subsequent "primary" elections for which contributions may be received. *Conn. Gen. Stat. 9-416*. Connecticut candidates without net debts outstanding after the convention may only accept contributions for the general election. *See First General Counsel's Report, FEC Matter Under Review #1775*.

Finally, a political committee other than a qualified multi-candidate committee may not make a contribution to a candidate for federal office in excess of \$1,000 per election. *2 U.S.C. § 441a(a)*.

III. THE FACTS

Jim Maloney was endorsed and nominated for the general election to the United States Congress at the Connecticut Democratic Party's July 13, 1998 statewide convention. The Friends of Jim Maloney Committee properly designated contributions received up to and on the 13th of July towards the "primary" election cycle. Because under state law a September 15 election would not be held in the 5th district, the next election at which Maloney would appear is the November 3, 1998 general election. Maloney did not have any net debts outstanding from his unopposed convention appearance.

From July 14 through at least September 10, Friends of Jim Maloney improperly accepted and unlawfully designated over 209 other contributions towards the "primary" election cycle. *See Maloney Pre-Primary FEC Report of 9/2/98, Schedule A*. Complainant has itemized these contributions by donor, date and election designation for Commission review (*attached*). These contributions aggregate to \$132,025.45.

Maloney cannot plead ignorance of the law in this case. His improper designation of these 209 contributions for the "primary" was clearly intentional - contributions received during the same period and designated for the general election were identified as "general" receipts. And Maloney knew that the contributions received after the convention could not be designated for the convention because he was informed of this fact by the Commission in a December 3, 1996 letter (*attached*).

Of the \$132,025.45 received post-convention, **\$5,650** represents unlawfully excessive receipts that **must be refunded immediately**. These refunds must be made to the following donors in the following amounts: \$1,000 to Barbara Kennelly for Congress, \$1,000 to Mr. Eugene Buckley, \$1,000 to Mr. Edward R. Tuft, \$1,000 to the American Bankers Association PAC, \$500 to James O. Gaston, \$500 to Ruth Lord, \$250 to Henry D. Lord, \$250 to Thomas J. Donohue Jr., and \$150 to Patricia Draper. As of today **another \$7,175 must also be refunded immediately** because it was not redesignated within 60 days.

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No other federal candidate in Connecticut has adopted Maloney's scheme of accepting and designating "primary" contributions after the convention. Indeed, Maloney's illegal maneuvering has been avoided by Senator Dodd, Senator Lieberman, Congresswoman DeLauro, Congressman Gejdenson, Congresswoman Johnson, Congressman Shays, Gary Franks, Mark Nielsen, and Kevin O'Connor, among others.

Barbara Kennelly has likewise engaged in illegal campaign financing activities under federal law, as a donor. On August 13, Kennelly contributed \$2,000 to Maloney's "primary" election campaign even though she knew or should have known that the "primary" giving cycle had concluded on July 13, with the state convention. Kennelly made another unlawfully excessive \$2,000 contribution to the "Committee for Loretta Sanchez" on December 17, 1997. Kennelly made both of these improper donations notwithstanding the Federal Election Commission's clear admonition to her campaign on November 5, 1996 that a "political committee other than a qualified multi-candidate committee may not make a contribution to a candidate for federal office in excess of \$1,000 per election." *See FEC 11/5/96 RFAI to Kennelly Campaign (attached)*.

IV. LEGAL PRECEDENTS & CONCLUSIONS

In 1984 the Democratic Congressional Campaign Committee filed a complaint against a Republican Congressman for doing precisely what Maloney is doing. *See FEC Matter Under Review #1775*. The DCCC alleged that the

acceptance of contributions relative to a non-existent [Connecticut] election in which [the nominated candidate] will not run appears to be an obvious evasion of the FECA's contribution limitations.

See DCCC 9/5/84 Complaint in MUR 1775 (emphasis added). The FEC's general counsel agreed with the DCCC, and the Commission found reason to believe DeNardis violated federal law but took no further action because (1) there were no excessive contribution violations when properly using the convention date as the "primary" date, (2) the committee promptly acknowledged its error and (3) the committee quickly amended its reports following its receipt of the complaint.

In 1991, special election candidate Harris Wofford engaged in similar misconduct. *See summary of FEC v. Wofford, from FEC's Selected Court Case Abstracts 1976 - Sept. 1997 at 161 (attached).* While the Pennsylvania Democratic convention nominated him for the special election on June 1, Wofford continued to accept contributions designated to the "primary" until September 5, the date of the Republican convention. In a 1996 order Judge William W. Caldwell determined that contributions received after June 1 should have been treated as general election contributions and fined Wofford \$15,000. (A magistrate judge considered

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larger fines but settled on \$15,000 after factoring in "the ability of the defendants to pay a fine." *See Report and Recommendation of the Magistrate Judge, Jan. 31, 1996).*

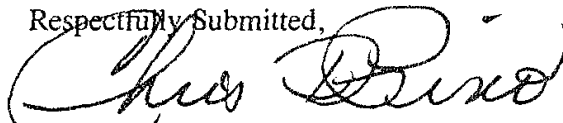
The Maloney campaign itself learned that it must count post-convention contributions towards the general election in 1996. In a December 3, 1996 letter to Maloney Congress '96, the Commission told Maloney that "contributions received after the convention . . . may be accepted by you only to the extent that you have outstanding debts remaining from the convention. (11 CFR 110.1(b)(3)(i))" *See Campbell 12/3/96 RFAI to Maloney Congress '96 (attached).* In 1996 Maloney's Committee acknowledged its awareness of 11 C.F.R. 110.1(b)(3)(i), but defended its post-Democratic convention acceptance of primary election contributions on its alleged participation in the "A Connecticut Party" convention that had not yet been held. *See Maloney Congress '96 12/18/96 Response to Campbell.* Because the A Connecticut Party has become dormant and did not hold any conventions this year, Maloney can not avail himself of this legally-questionable defense this year.

The facts are undisputed. With these clear precedents the law is also clear. And it is further manifest that Jim Maloney knew or should have known that his actions in 1998 were contrary to federal election law.

V. PRAYER FOR RELIEF

Jim Maloney and the Friends of Maloney Committee must not benefit from unlawful fund-raising tactics for a second election in a row. Prior Commission precedent is clear and unambiguous – Maloney's scheme to accept primary contributions after his nomination at the July 13 state party convention clearly violates federal law. Indeed, Maloney's own prior correspondence with the Commission alerted him to the law he has now broken less than two years later. The Commission should take swift and appropriate actions to deter future violations of the law by Maloney's campaign, particularly knowing and willful transgressions. Further, the Commission should hold Maloney campaigns to the same disciplinary standard applied against Mr. Wofford's committee when it failed to comply with federal designation requirements.

Respectfully Submitted,



Chris DePino

Chairman

Connecticut Republican State Central Committee

State of Connecticut

Signed and sworn to before me
this 23rd day of September, 1998.


NOTARY PUBLIC

My commission expires: 8/31/02

MICHAEL ARGENTO
NOTARY PUBLIC
MY COMMISSION EXPIRES AUG. 31, 2002

<u>Donor</u>	<u>Date</u>	<u>Amount</u>	<u>Designation</u>	<u>Must be Refunded</u>	<u>Must be Redesignated</u>
ABA BankPAC	26-Jun	\$1,000.00	G		
ABA BankPAC	14-Jul	\$1,000.00	G		
ABA BankPAC	1-Sep	\$4,000.00	"P"	\$1,000.00	\$4,000.00
AF of M Tempo PVCC	25-Aug	\$250.00	"P"		\$250.00
AFGE PAC	26-Aug	\$500.00	"P"		\$500.00
AFL-CIO COPE	30-Jun	\$3,000.00	G		
AFSCME	12/22/97	\$5,000.00	G		
AFT PAC	15-Aug	\$5,000.00	G		
AICPA PAC	26-Aug	\$1,000.00	"P"		\$1,000.00
Air Line Pilots PAC	12-Aug	\$1,000.00	"P"		\$1,000.00
Allied Signal PAC	11-May	\$500.00	G		
AMA PAC	18-Aug	\$2,500.00	G		
Amer Maritime Officers Vol PAC	4-Aug	\$500.00	"P"		\$500.00
Amer Nurses Assn	26-Aug	\$2,500.00	"P"		\$2,500.00
Amer. Academy of Otolaryngology PAC	17-Aug	\$500.00	"P"		\$500.00
Amer. Society of Plastic & Reconstr Surgeons	10-Aug	\$500.00	"P"		\$500.00
America Works Comm	5-Aug	\$1,000.00	"P"		\$1,000.00
Andrews, Wright H.	4-Aug	\$500.00	"P"		\$500.00
Antinozzi, Paul	6-May	\$250.00	G		
Apicella, Andrew	21-Jul	\$250.00	"P"	\$250.00	\$250.00
Archer, Walter R.	3-Aug	\$250.00	"P"		\$250.00
Arconti, Richard D.	25-Aug	\$250.00	"P"		\$250.00
Arconti, Thomas J.	25-Aug	\$300.00	"P"		\$300.00
Arthur Anderson PAC	5/28/97	\$500.00	G		
Backer, Ted Dean	25-Aug	\$250.00	"P"		\$250.00
Banc One	26-Aug	\$2,500.00	G		
Banc One PAC	8-Apr	\$1,000.00	G		
Barbara Kennelly for Cong	13-Aug	\$2,000.00	"P"	\$1,000.00	\$2,000.00
Barberie, Jill Edelman	4-Aug	\$250.00	"P"		\$250.00
Barney Frank for Cong	17-Aug	\$1,000.00	"P"		\$1,000.00
Beck, Bruce S.	12-Aug	\$250.00	"P"		\$250.00
Becker, Kraemer Sims	26-Aug	\$500.00	"P"		\$500.00
Belt, David	16-Jun	\$500.00	G		
Benjamin, Daniel A.	10-Aug	\$250.00	"P"		\$250.00
Bennett, David	12-Aug	\$1,000.00	G		
Bertran, Bert	25-Aug	\$500.00	G		
Bethel Dem Town Cmte	29-Jul	\$500.00	"P"		\$500.00
Bick, Michael A.	11-Aug	\$250.00	"P"		\$250.00
Blau, Harry	26-Aug	\$1,000.00	G		
Bob Filner for Congress '98	15-Sep	\$1,000.00	"P"		\$1,000.00
Boeing PAC	26-Aug	\$500.00	"P"		\$500.00
Boilermakers-Blacksmith LEAP	17-Aug	\$1,000.00	"P"		\$1,000.00
Bonan Jr., William A.	10-Aug	\$300.00	"P"		\$300.00
Borrelli, Anthony	4-Aug	\$100.00	"P"		\$100.00
Bougle, Roger	17-Aug	\$1,000.00	G		
Brogan, Christopher	17-Aug	\$500.00	G		
Brotherhood of Locomotive Engineers PAC	6-Aug	\$500.00	G		
Brown, Marion F.	26-Aug	\$100.00	"P"		\$100.00
Buckley, Eugene	15-Aug	\$1,000.00	"P"		\$1,000.00

Buckley, Eugene	15-Aug	\$1,000.00	G	\$1,000.00	
Buonanno, David	26-Aug	\$500.00	"P"		\$500.00
Carpenters Legislat	26-Aug	\$2,500.00	G		
Improvement Cmte					
Carter, Robert	21-May	\$500.00	G		
Carter, Robert F.	7-Aug	\$250.00	G		
Cartoceti, Robert J.	4-Aug	\$250.00	"P"		\$250.00
Casper, Stewart M.	27-Jul	\$500.00	G		
Casper, Stewart M.	26-Aug	\$250.00	G		
Ceneviva, Dennis A.	17-Aug	\$250.00	"P"		\$250.00
Champions of Good Gvt	12-Aug	\$500.00	G		
Int'l					
Chase Manhattan Corp.	10/31/97	\$500.00	G		
Fund for Good Gvt					
Chris John for Congress	15-Sep	\$1,000.00	"P"		\$1,000.00
Cmte					
Cirillo, Eileen E.	3-Aug	\$250.00	"P"		\$250.00
Civitello, Donna	6/17/97	\$1,000.00	G		
Cmte on Pol. Action of	12-Aug	\$1,000.00	"P"		\$1,000.00
APU					
Cmte to Elect Ackerman	25-Aug	\$1,000.00	"P"		\$1,000.00
Coffey, Judith	25-Aug	\$99.00	"P"		\$99.00
Coffey, Judith	25-Aug	\$99.00	"P"		\$99.00
Coffey, William D.	22-Jul	\$500.00	"P"		\$500.00
Cohen, Bruce F.	22-Jul	\$250.00	"P"		\$250.00
College of Am Pathologists	24-Jul	\$2,000.00	G		
PAC					
Coltec Industries PAC	26-Aug	\$500.00	"P"		\$500.00
Coltec Industries PAC	9-Sep	\$1,000.00	"P"		\$1,000.00
Condon, Jane	16-Jul	\$250.00	"P"	\$250.00	\$250.00
Conover, Catherine	25-Aug	\$250.00	"P"		\$250.00
Conroy, Sally E.	25-Aug	\$250.00	"P"		\$250.00
Coopersmith, Richard	25-Aug	\$250.00	"P"		\$250.00
Corp. for Advancement of	26-Aug	\$500.00	"P"		\$250.00
Psychiatry PAC					
Crowley, Joan E.	17-Aug	\$1,000.00	G		
Crowley, Lewis E.	14-Aug	\$1,000.00	G		
CT Carpenters Legislat	7-Aug	\$2,500.00	G		
Improvement Cmte					
CT State Eyees PAC	18-Aug	\$1,000.00	"P"		\$1,000.00
Danbury Democrats	31-Jul	\$400.00	"P"		\$400.00
DCCC	12-Aug	\$495.96	"P"		\$495.96
Dean, Robert B.	17-Aug	\$500.00	G		
Delahunt for Congress	15-Sep	\$1,000.00	"P"		\$1,000.00
Committee					
DeVine, Tom	25-Aug	\$640.00	"P"		\$640.00
Dibner, Frances	3-Aug	\$150.00	"P"		\$150.00
DiCaprio, Anthony	22-Jul	\$50.00	"P"		\$50.00
Donohue Jr., Thomas J.	14-Jul	\$250.00	"P"	\$250.00	\$250.00
Donohue Jr., Thomas J.	9-Sep	\$1,000.00	"P"		\$1,000.00
Dorris, Larry	25-Aug	\$250.00	"P"		\$250.00
Draper, Patricia	14-Aug	\$150.00	"P"	\$150.00	\$150.00
Draper, Patricia	14-Aug	\$1,000.00	G		
Draper, Thomas	17-Jun	\$100.00	G		
Draper, Thomas F.	15-Aug	\$900.00	G		
DRIVE PAC	30-Jun	\$5,000.00	G		

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Dunleavy, Martin J.	21-Aug	\$250.00	"P"		\$250.00
Dwoskin, Albert J.	6-Aug	\$250.00	"P"		\$250.00
Early, James F.	7-Aug	\$250.00	"P"		\$250.00
Eckhaus, Ethel	14-Jul	\$250.00	"P"	\$250.00	\$250.00
Effective Gvt Cmte	17-Aug	\$2,000.00	"P"		\$2,000.00
Egan, Gerard M.	4-Aug	\$100.00	"P"		\$100.00
Egan, Gerard M.	10-Aug	\$250.00	"P"		\$250.00
Embry, Stephen C.	29-Jul	\$500.00	"P"		\$500.00
Embry, Stephen C.	29-Jul	\$500.00	G		
Emslie, Robert D.	14-Jul	\$250.00	"P"	\$250.00	\$250.00
Eriquez, Gene	25-Aug	\$640.00	"P"		\$640.00
Eriquez, Gene	26-Aug	\$175.00	"P"		\$175.00
Eyes of Northrop	12-Aug	\$500.00	"P"		\$500.00
Grumman Corp PAC					
Falanzo, Richard Michael	18-Aug	\$250.00	"P"		\$250.00
Falco, James	26-Aug	\$500.00	G		
Faust, Halley S.	11/21/97	\$1,000.00	G		
Faust, Ruth Anne	29-Jun	\$1,000.00	G		
Feltman, Philip D.	11-Aug	\$500.00	"P"		\$500.00
First American Corp. PAC	16-Jul	\$500.00	"P"	\$500.00	\$500.00
Fischbein, Ellen	10-Aug	\$250.00	"P"		\$250.00
Flatt, Roy A.	19-Aug	\$500.00	"P"		\$500.00
Fornshell, Robert F.	17-Aug	\$250.00	"P"		\$250.00
Francisco, Jose	29-Jul	\$250.00	"P"		\$250.00
Friends of Sherrod Brown	5-Aug	\$1,000.00	"P"		\$1,000.00
Galio, Anthony	17-Jun	\$1,000.00	G		
Galluzzo, Donna	9-Sep	\$1,000.00	"P"		\$1,000.00
Galullo, Kathy A.	14-Jul	\$250.00	"P"	\$250.00	\$250.00
Garcia, Anthony J.	20-Aug	\$250.00	"P"		\$250.00
Gaston, James O.	17-Aug	\$500.00	"P"	\$500.00	\$500.00
Gaston, James O.	9-Sep	\$1,000.00	"P"		\$1,000.00
Gene Green	15-Sep	\$1,000.00	"P"		\$1,000.00
Congressional Campaign					
Gen'l Dynamics PAC	6-Aug	\$500.00	"P"		\$500.00
Glass Molders, Pottery, Plastic	3-Aug	\$500.00	"P"		\$500.00
Gold, Clifford	13-Aug	\$250.00	"P"		\$250.00
Goldman, Alvin	25-Aug	\$250.00	"P"		\$250.00
Goodman, Michael W.	25-Aug	\$500.00	"P"		\$500.00
Gover, Donald	26-Aug	\$750.00	"P"		\$750.00
Gover, Donald	26-Aug	\$250.00	G		
Gregory, Julian	4-Aug	\$200.00	"P"		\$200.00
Gregory, Julian	25-Aug	\$200.00	"P"		\$200.00
Gruberg, Ira B.	7-Aug	\$200.00	"P"		\$200.00
Gruberg, Ira B.	7-Aug	\$50.00	G		
Haddon, Jean Reynolds	26-Aug	\$500.00	"P"		\$500.00
Hadelman, Allen C.	22-Jul	\$250.00	"P"		\$250.00
Hadley, Philip N.	17-Jul	\$250.00	"P"	\$250.00	\$250.00
Hale, C. Richard	25-Aug	\$250.00	"P"		\$250.00
Hammerslough, John C.	26-Aug	\$250.00	"P"		\$250.00
Handgun Control	17-Aug	\$2,000.00	"P"		\$2,000.00
Hastings, Barbara A.	26-Aug	\$250.00	G		
Hermes, Helen Davis	25-Jun	\$500.00	G		
Heyman, Joseph	22-Jul	\$150.00	"P"		\$150.00
Hibernia People for GGF PAC	27-Jul	\$2,500.00	"P"		\$2,500.00

2025 RELEASE UNDER E.O. 14176

Hickey, John	16-Jul	\$250.00	"P"	\$250.00	\$250.00
Hoyer for Cong	9-Sep	\$1,000.00	"P"		\$1,000.00
Hugo, Robert G.	26-Aug	\$100.00	"P"		\$100.00
IBEW	13-May	\$1,000.00	G		
IBEW	16-Jun	\$200.00	G		
IBEW	17-Jun	\$3,000.00	G		
IBEW 42 PAC	30-Jun	\$150.00	G		
Ike Skelton for Cong	10-Aug	\$500.00	"P"		\$500.00
Ike Skelton for Cong	20-Aug	\$500.00	"P"		\$500.00
Int'l Brotherhood of	9-Sep	\$2,500.00	"P"		\$2,500.00
Painters and Allied Trades					
Int'l Org. of Masters, Mates	15-Sep	\$1,000.00	"P"		\$1,000.00
& Pilots					
Int'l Union of Electronic,	26-Aug	\$500.00	"P"		\$500.00
Elec Salaried, Machine &					
Furn PAC					
Int'l Union of Operating	26-Aug	\$1,000.00	G		
Engineers PAC					
Ironworkers PAC	23-Jun	\$500.00	G		
Ironworkers PAC	21-Aug	\$1,000.00	G		
Jaffe, David R.	30-Jun	\$1,000.00	G		
Jones, Michael D.	6-Aug	\$250.00	"P"		\$250.00
Jordanides, Spero	14-Jul	\$150.00	"P"	\$150.00	\$150.00
Jordanides, Spero	29-Jul	\$125.00	"P"		\$125.00
JP Morgan PAC	15-Aug	\$1,000.00	"P"		\$1,000.00
Kadish, Allyne	15-Aug	\$300.00	"P"		\$300.00
Kaiser, Denise A.	10-Aug	\$250.00	"P"		\$250.00
Kaman Corp. Good Gvt	12-Aug	\$500.00	"P"		\$500.00
Fund					
Karlan, Andrea F.	18-Aug	\$500.00	"P"		\$500.00
Karlan, Walter	14-Sep	\$1,000.00	"P"		\$1,000.00
Kellogg, Steven C.	25-Aug	\$250.00	"P"		\$250.00
Kenigsberg, Irwin	17-Aug	\$500.00	G		
Kenney, Robert	17-Aug	\$1,000.00	G		
Keycorp PAC	29-Jun	\$1,000.00	G		
KidsPAC	29-Jul	\$1,000.00	"P"		\$1,000.00
Killian Jr., Robert E.	14-Jul	\$250.00	"P"	\$250.00	\$250.00
Kingston, James B.	8/19/97	\$1,000.00	G		
Kolzin, Harvey L.	20-Jul	\$250.00	"P"	\$250.00	\$250.00
Koskoff, Michael P.	10-Aug	\$250.00	"P"		\$250.00
Krate, Herbert	11-Aug	\$250.00	"P"		\$250.00
Laborers' Pol League	29-Jul	\$1,500.00	"P"		\$1,500.00
Leadership '98 (Al Gore	1-May	\$1,000.00	G		
PAC)					
League of Conservation	24-Aug	\$3.99	"P"		\$3.99
Voters PAC					
Lenz, Robert	6-Aug	\$100.00	"P"		\$100.00
Lockheed Martin	1-Sep	\$1,000.00	"P"		\$1,000.00
Lord, Henry	10/16/97	\$1,000.00	G		
Lord, Henry	23-Jun	\$250.00	G	\$250.00	\$250.00
Lord, Ruth	10/21/97	\$1,000.00	G		
Lord, Ruth	25-Apr	\$500.00	G	\$500.00	
Machinists Nonpartisan	25-Aug	\$5,000.00	G		
PAC					
Magid, Dennis	21-Jul	\$25.00	"P"	\$25.00	\$25.00
Malone, Stephen	26-Aug	\$500.00	"P"		\$500.00

Maloney, Alan	28-Jul	\$1,000.00	"P"		\$1,000.00
Maloney, Donald	5-May	\$200.00	G		
Maloney, Donald M.	10-Aug	\$800.00	G		
Maloney, K.H.	12/29/97	\$1,000.00	G		
Maloney, Mark K.	12/24/97	\$1,000.00	G		
Manatos, Andrew E.	4-Aug	\$250.00	"P"		\$250.00
Manton for Cong	26-Aug	\$500.00	"P"		\$500.00
Marano, Richard	26-Aug	\$250.00	"P"		\$250.00
Marcus, Edward	9-Sep	\$1,000.00	"P"		\$1,000.00
Marcus, Shelley	9-Sep	\$1,000.00	"P"		\$1,000.00
Marlani, Linda	3-Aug	\$500.00	"P"		\$500.00
Mattison Jr., Vincent E.	26-Aug	\$250.00	"P"		\$250.00
McIlvaine, Paul	25-Aug	\$250.00	"P"		\$250.00
McNulty for Cong	26-Aug	\$250.00	"P"		\$250.00
MDPAC (west Bloomfield, MI)	27-Jul	\$2,000.00	"P"		\$2,000.00
Mead, Lynn M.	29-Jul	\$1,000.00	"P"		\$1,000.00
Mellen, Diane	6-Apr	\$1,000.00	G		
Mellen, Michael	1-Sep	\$1,000.00	"P"		\$1,000.00
Mellen, Valerie	1-Sep	\$1,000.00	"P"		\$1,000.00
Menendez for Cong	29-Jul	\$1,000.00	"P"		\$1,000.00
Middleton Jr., Richard B.	4-Aug	\$250.00	"P"		\$250.00
Mitchell, Donald A.	3-Aug	\$250.00	"P"		\$250.00
Monroe Democratic Town Dmte	3-Aug	\$100.00	"P"		\$100.00
MOR-PAC	14-Jul	\$250.00	"P"	\$250.00	\$250.00
Murray, Georgia	12/24/97	\$1,000.00	G		
Murray, Linda Sanders	24-Jul	\$250.00	"P"		\$250.00
Nabisco PAC	18-Aug	\$500.00	G		
Nadler for Cong	10-Sep	\$1,000.00	"P"		\$1,000.00
NARFE	10-Sep	\$2,000.00	"P"		\$2,000.00
National Leadership PAC	20-Jul	\$1,000.00	"P"	\$1,000.00	\$1,000.00
Nat'l Air Traffic Controllers Assn	5-Aug	\$500.00	"P"		\$500.00
Nat'l Assoc of Social Workers	26-Aug	\$500.00	"P"		\$500.00
Nat'l Assoc of Water Cos PAC	31-Jul	\$500.00	"P"		\$500.00
Nat'l Cmte to Preserve SS & Medicare	26-Aug	\$1,500.00	"P"		\$1,500.00
Nat'l Cmte to Preserve SS & Medicare	15-Sep	\$1,000.00	"P"		\$1,000.00
Nat'l Comm for an Effective Cong	15-Aug	\$2,500.00	"P"		\$2,500.00
Nat'l Comm for an Effective Cong	15-Aug	\$1,000.00	G		
Nat'l Home Equity Mtge Assoc PAC	4-Aug	\$500.00	G		
NCPA PAC	7-Aug	\$500.00	"P"		\$500.00
Neusner, David N.	3-Aug	\$500.00	G		
Neustadt, Michael E.	25-Aug	\$250.00	"P"		\$250.00
New Democratic Network	26-Aug	\$600.00	"P"		\$600.00
New Fairfield Dem Town Cmte	12-Aug	\$200.00	"P"		\$200.00
Newport News Shipbuilding PAC	26-Aug	\$500.00	"P"		\$500.00

Newport News Shipbuilding PAC	14-Sep	\$2,000.00	"P"		\$2,000.00
O'Brien, Lawrence	5-Aug	\$300.00	"P"		\$300.00
OCAWIU COPE Fund	27-Jul	\$500.00	"P"		\$500.00
Oliver, Hon. John W.	5-Aug	\$1,000.00	"P"		\$1,000.00
Oxford Democratic Town Cmte	25-Aug	\$522.50	"P"		\$522.50
Palumbo, Dominick	9-Sep	\$1,000.00	"P"		\$1,000.00
Pearce, Herbert	26-Apr	\$1,000.00	G		
Pillsbury, Charles	14-Jul	\$250.00	"P"	\$250.00	\$250.00
PNCBank PAC	15-Jul	\$500.00	"P"	\$500.00	\$500.00
Pullman Comley Bradley & Reeves PAC	26-Aug	\$1,000.00	"P"		\$1,000.00
Rafel, John W.	21-Jul	\$250.00	"P"	\$250.00	\$250.00
Raytheon PAC	16-Apr	\$500.00	G		
Raytheon PAC	16-Jun	\$500.00	G		
Raytheon PAC	12-Aug	\$500.00	G		
Realtors PAC	4-Aug	\$500.00	"P"		\$500.00
Reelect Moakley Cmte	12-Aug	\$1,000.00	"P"		\$1,000.00
Responsible Citizens Pol League	5-Aug	\$500.00	"P"		\$500.00
Riccio, Frank J.	16-Jul	\$250.00	"P"	\$250.00	\$250.00
Riordan, Timothy J.	20-Jul	\$250.00	"P"	\$250.00	\$250.00
Roach, James R.	25-Aug	\$250.00	"P"		\$250.00
Rosen, Kenneth	26-Aug	\$500.00	"P"		\$500.00
Rotello, Louis A.	25-Aug	\$250.00	"P"		\$250.00
Rubenstein, Bruce	9-Sep	\$1,000.00	"P"		\$1,000.00
Ryer, Michael P.	25-Aug	\$250.00	"P"		\$250.00
Salams, Albert J.	25-Aug	\$250.00	"P"		\$250.00
Satterwhite, James	26-Aug	\$1,000.00	"P"		\$1,000.00
Schwabenbauer, Albert	26-Aug	\$750.00	"P"		\$750.00
Schwabenbauer, Albert	26-Aug	\$250.00	G		
Seafarer PAC	12-Aug	\$500.00	"P"		\$500.00
Shafner, Matthew	14-Jul	\$250.00	"P"	\$250.00	\$250.00
Shilstone, Beatrice	14-Jul	\$250.00	"P"	\$250.00	\$250.00
Sierra Club PAC	7-Aug	\$500.00	"P"		\$500.00
Sierra Club PAC	14-Sep	\$3,450.00	"P"		\$3,450.00
Signalmen's Pol League	19-Aug	\$250.00	"P"		\$250.00
Silvert, Corinne	25-Aug	\$250.00	"P"		\$250.00
Slane, Mark R.	25-Aug	\$250.00	"P"		\$250.00
Smith Jr., Earl J.	25-Aug	\$250.00	"P"		\$250.00
Snyder, Victor	29-Jul	\$500.00	"P"		\$500.00
Steiner, Jessie	19-Aug	\$500.00	"P"		\$500.00
Taber, Richard E.	14-Jul	\$250.00	"P"	\$250.00	\$250.00
Thal, Rita	10-Aug	\$100.00	"P"		\$100.00
Tomberg, Martin W.	16-Jul	\$500.00	"P"	\$500.00	\$500.00
Toner, Michael W.	22-Jul	\$250.00	"P"		\$250.00
Transport Workers Union	26-Aug	\$1,000.00	G		
Transportation Pol Education League	25-Aug	\$5,000.00	G		
Trattner, Jeffrey B.	20-Aug	\$500.00	"P"		\$500.00
Treasury Eeyes PAC	3-Aug	\$500.00	"P"		\$500.00
Treasury Eeyes PAC	15-Sep	\$1,000.00	"P"		\$1,000.00
Tufte, Edward R.	10-Sep	\$1,000.00	"P"		\$1,000.00
Tufte, Edward R.	10-Sep	\$1,000.00	G	\$1,000.00	
UA Pol Education Cmte	11-Aug	\$1,500.00	"P"		\$1,500.00

UAW v CAP	4-Aug	\$500.00	"P"		\$500.00
UFCW	30-Jun	\$5,000.00	G		
UNITE Campaign Cmte	26-Aug	\$1,000.00	"P"		\$1,000.00
United Mine Workers	26-Aug	\$1,000.00	"P"		\$1,000.00
Ventura, Americo	25-Aug	\$100.00	"P"		\$100.00
Washington PAC	29-May	\$500.00	G		
Weeden, Donald E.	25-Jun	\$500.00	G		
Weeden, Donald E.	26-Aug	\$500.00	"P"		\$500.00
Welch, Michele	23-Jul	\$250.00	"P"		\$250.00
Weller, Frank	25-Aug	\$250.00	"P"		\$250.00
Weygand Committee	15-Sep	\$1,000.00	"P"		\$1,000.00
Winslow, Heidi	18-Aug	\$50.00	"P"		\$50.00
Wrabel, John E.	25-Aug	\$250.00	"P"		\$250.00
Wronowski, Susan A.	15-Jul	\$250.00	"P"	\$250.00	\$250.00
Wynn for Cong	24-Jul	\$1,000.00	"P"		\$1,000.00
TOTALS				\$12,825.00	\$132,025.45

A campaign committee may accept contributions for an anticipated election, but must return the contributions if the contributors have exhausted their limits for the remaining elections.

October 8, 1982

This responds to your letter of August 4, 1982, as supplemented by your letter of August 25, 1982, requesting an advisory opinion on behalf of the Weicker '82 Committee ("the Committee") concerning application of the Federal Election Campaign Act of 1971, as amended ("the Act"), to the use by the Committee of funds raised in anticipation of a possible run-off election.

Your August 4 letter states that because of the "controversial nature" of the pre-primary race between Senator Lowell Weicker and his opponent, Prescott Bush, the Committee has reason to believe that Mr. Bush would elect to have a "run-off" election.¹ You add that Mr. Bush announced his intention to have a primary election on numerous occasions, including a public announcement on the floor of the state Republican convention. In reliance on the foregoing statements by Mr. Bush and newspaper reports of his intention to have a primary election, the Committee contracted to pay \$65,000² to Winning Ways, Ltd. of Pearl River, New York, for the purpose of telephoning independent voters in Connecticut on behalf of Senator Weicker to advocate their registration as Republicans for the primary election. In addition to entering into the contract with Winning Ways, Ltd., the Committee also established a separate, interest-bearing account to receive contributions from individuals for use in the event a primary election were to occur.³ You state that presently the primary election account has received a total of \$9,600 in campaign contributions specifically designated for use in a primary election. You add that these contributions were made by individuals who have reached the legal limit for individual contributions to the nominating convention⁴ and general election.

Your letter of August 25, 1982, explains that a total of \$35,250 was paid from the convention account to Winning Ways, Ltd. prior to the state party's nominating convention held on July 24, 1982. The Committee also paid Winning Ways, Ltd. \$5,560 for actual services rendered on July 26 and 27, after the convention and prior to Prescott Bush's formal announcement on July 27, 1982, of his decision to withdraw from the Senate race. Under these circumstances, you ask whether the \$9,600 which was contributed toward the primary election may be used by the Committee to defray expenses incurred by the Committee with Winning Ways, Ltd., specifically in anticipation of a primary election.

Under the Act, individuals are prohibited from making a contribution to a candidate for Federal office in excess of \$1,000 with respect to any election. 2 U.S.C. § 441a(a)(1)(A). The term "election" is defined in 2 U.S.C. § 431(1) to mean a general, special, primary, or run-off election. Moreover, because the Connecticut Republican Party Convention has the authority under relevant state law to nominate a candidate, the Commission has held that such a convention is an "election" for purposes of the Act's contribution limits. Advisory Opinion 1976-58; see 2 U.S.C. § 431(1)(B) and 11 CFR 100.2(e).

The Commission recognizes that accepting contributions for an election at a time before the necessity of such an election is determined is analogous to accepting general election contributions before the primary election. Advisory Opinion 1980-68. The acceptance of general election contributions before the primary election is specifically permitted in Commission regulations. See, 11 CFR 102.9(e). Thus, the Commission has approved the acceptance of run-off election contributions before there is an established necessity for such an election provided that such run-off election contributions are separately accounted for and are returned to the donors in the event that no run-off election is held. Advisory Opinion 1980-68; see also Advisory Opinion 1980-122, copies enclosed.

In the situation presented here there was only one "election" held for purposes of the Act's contribution limits (i.e., the convention) since Mr. Bush did not file petitions, and under Connecticut law there is no primary election held unless a candidate satisfies that requirement. See, Conn. Gen. Stat. § 9-416. Since there was not a determination under state law to hold a primary election, there can be no separate contribution limit with respect to that election. Therefore, it is the opinion of the Commission that the Committee may not lawfully under the Act use the contributions collected in anticipation of the primary election to defray expenses incurred by the Committee. To the extent that contributors to the Committee's primary election account have exhausted their contribution limits with respect to the convention and the general election, contribu-

tions from those individuals must be returned to them. See, Advisory Opinions 1980-68, and 1980-122.

¹ Connecticut law states that a person who is a member of a political party, who has received at least 20% of the vote on any roll call vote at the state party convention for nomination to a state-wide office, and who files petitions signed by the requisite number of electors who are members of the political party, may run in the primary election against the candidate endorsed by the state party convention. See Conn. Gen. Stat. § 9-400. If no candidacy for nomination by a political party to an office has been filed by another person, other than the party endorsed candidate, no primary is to be held for such party for such office and the party endorsed candidate for such office shall be deemed to have been lawfully chosen as the nominee of such party for such office. Conn. Gen. Stat. § 9-416. Your letter uses the term "run-off" to describe the September 7, 1982, election, and it is true that that election has many characteristics of a run-off election. However, the Commission notes that Connecticut law regards that election as a primary election. See, Advisory Opinion 1976-58, copy enclosed. For purposes of this opinion, the Commission will refer to the September 7 election as a primary election.

² Your letter of August 25 indicates that no further amounts are due under the terms of this contract.

³ Had such a primary election been held it would have occurred on September 7, 1982.

⁴ See discussion in footnote 1.

AO 1976-58

A candidate could be involved in three elections for reporting purposes if a state has a nominating convention as part of their primary system.

August 26, 1976

This letter is in response to yours of July 15, 1976, requesting an opinion from the Commission as to the number of elections, under the Federal Election Campaign Act of 1971, as amended (the "Act"), in which the Jeff Peterson for Congress Committee is involved. Mr. Peterson is a candidate in the State of Connecticut.

You stated each Congressional district holds a party nominating convention, and if a candidate receives 20 percent of the convention delegate vote but another candidate receives the nomination, the unsuccessful candidate may by petition file for a primary election. Then, after the primary election between the party-endorsed candidate and the petitioning candidate, the general election between the respective nominees of the parties is held.

Under the 1974 Amendments to the Act, "election" was defined in 2 U.S.C. § 431(a)(2) to include "a convention ... of a political party held to nominate a candidate." Therefore, any party convention not held for the purpose of nominating a candidate was considered to be merely part of the primary election process, and not a separate "election" under § 431(a). However, the 1976 Amendments to the Act (effective May 11, 1976) modified the above definition, so that § 431(a)(2) now includes as a separate election "a convention ... of a political party which has authority to nominate a candidate." (Emphasis added.)

Section 9-382 of the Connecticut General Statutes states that "(t)he ... district convention ... shall ... choose a candidate for nomination to each of the district offices (which includes under § 9-372 the office of representative in Congress). ... Candidates so chosen shall run in the primary of such party as party-endorsed candidates, except as provided in section 9-416." The cited section 9-416 states:

If at a ... district convention no person other than a party-endorsed candidate has received at least twenty percent of the votes of the delegates present ... on the endorsement ... of a candidate for a ... district office, or if ... no candidacy for nomination by a political party ... to such office has been filed by or on behalf of a person other than a party-endorsed candidate ... no primary shall be held by such party for such office and the party-endorsed candidate for such office shall be deemed to have been lawfully chosen as the nominee of such party for such office (Emphasis added.)

It is thus possible under Connecticut law for the convention's "party-endorsed candidate" to be "deemed ... chosen as the nominee" if no other candidate receives 20% of the convention delegate votes, or files a "candidacy" for nomination. In such a case the convention endorsement is tantamount to a nomination of the

candidate, and would fall within the amended § 431(a)(2) definition of "election," as a convention with "authority to nominate" a candidate. The fact that the party endorsement might result in a tentative nomination subject to challenge would not change this. If there is no challenge and thus no primary election, there would be two "elections": the convention and the general election. If a candidate winning 20% of the convention delegate votes petitioned for a primary election there would be three "elections": the convention, primary and general election.

Therefore, if a primary election occurs, the Jeff Peterson for Congress Committee would be involved in three elections (assuming Mr. Peterson won the primary and therefore ran in the general election), and would file reports with respect to each under 2 U.S.C. § 434(a)(1)(A), and could receive contributions with respect to each election under § 441(a).

This response constitutes an advisory opinion concerning the application of a general rule of law stated in the Act to the specific factual situation set forth in your request. See 2 U.S.C. § 437f.

FEC v. WOFFORD

On March 27, 1996, the U.S. District Court for the Middle District of Pennsylvania *accepted the* January 1, 1996, recommendation of the magistrate judge in this case; a \$15,000 civil penalty was imposed on the Citizens for Wofford committee and its treasurer for accepting contributions in excess of the per-election limits. 2 U.S.C. §441a(f).

This case involved an FEC enforcement action born out of the 1991 Pennsylvania special election to fill a U.S. Senate seat. The Democratic party nominated Harris Wofford on June 1, 1991. The party chose not to certify him to the state as the Democratic nominee until September 5, however, because the Republican party did not nominate his opponent, Richard Thornburgh, until then.

Mr. Wofford's principal campaign committee, Citizens for Wofford, regarded contributions received after June 1 but before September 5 as primary election contributions. In doing so, contributors were able to give twice as much to Mr. Wofford's general election effort; contributors gave up to their per-election limit for his primary election effort after the fact and again to his general election effort.

The court determined that contributions received after June 1 should have been treated as general election contributions. 11 CFR 110.1(b)(2) and (3).

Although the amount of unlawful contributions received by the defendants was stipulated to have been \$198,075, the court did not issue a higher civil penalty because "there is not a basis presented upon which one may reasonably infer that the defendants acted in bad faith" and because the committee had less than \$15,000 in assets and was \$70,000 in debt. The court concluded: "A fine in the amount of \$15,000 would be adequate to vindicate all of the interests of the Commission and of the public in this case."

FEC Record, June 1996, p. 4.

FEC v. WOLFSON

On February 6, 1986, the U.S. District Court for the Middle District of Florida, Tampa Division, issued an order granting the FEC's motion for summary judgment in a suit which the FEC had brought against Allen Wolfson on October 7, 1985. (*FEC v. Allen Z. Wolfson*; Civil Action No. 85-1617-CIV-T-13.)

As requested by the FEC, the court found that Mr. Wolfson had violated the election law by making contributions to authorized candidate committees which exceeded the law's monetary limits (2 U.S.C. §441a(a)(1)(A)) and which were made in the names of other persons (2 U.S.C. §441f).

The court permanently enjoined Mr. Wolfson from further violations of the election law and imposed a \$52,000 civil penalty on him.

Source: FEC Record, April 1986, p. 8.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

RQ-2

Eileen S. Coladarsi, Treasurer
Maloney Congress '96
1325 East Main Street
Waterbury, CT 06708

DEC 3 1996

Identification Number: C00310417

Reference: October Quarterly Report (8/10/96-9/30/96)

Dear Ms. Coladarsi:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A of your report discloses contributions received after the convention which are designated for the convention. These contributions may be accepted by you only to the extent that you have outstanding debts remaining from the convention. (11 CFR §110.1(b)(3)(i))

A contribution is considered to be made when the contributor relinquishes control over the contribution. A contributor shall be considered to have relinquished control over the contribution when it is delivered to the candidate, when it is delivered to an authorized committee of the candidate, or to an agent of an authorized committee of the candidate. A contribution that is mailed to any of the aforementioned recipients will be considered to have been made on the date of the postmark. Envelopes should be retained for the committee's records. (11 CFR §110.1(6))

If the contribution(s) accepted by you exceeds the amount of outstanding debt remaining from the convention, you should refund the contribution(s) or seek redesignation of the contribution(s), in writing, from the contributor to the next election. The Commission should be notified if a refund is necessary. Refunds are reported on Line 20 of the Detailed Summary Page and on a supporting Schedule B of the report covering the period during which the refund is made. Redesignations are reported as memo entries on

MALONEY

★ CONGRESS ★

JIM'S ON OUR SIDE

December 18, 1996

VIA FACSIMILE AND MAIL

Ms. Ginger Campbell
Reports Analyst
Reports Analysis Division
Federal Election Commission
999 B Street, NW
Washington, DC 20463

Dear Ms. Campbell:

I am writing in response to your letter to the Maloney-Congress-96 campaign, dated December 3, 1996 (copy attached) in which you have raised certain issues relating to the campaign's October Quarterly Report (8/19/96-9/30/96) filed with the Federal Election Commission.

In your letter you note that Schedule A of the campaign's report discloses contributions "received after the convention which are designated for the convention". These contributions have been so designated because they were received by the campaign prior to the A Connecticut Party (ACP) convention held August 29, 1996. In Connecticut's Fifth Congressional District the ACP party was entitled to a separate ballot line by virtue of its historical ballot line performance and applicable Connecticut State Law. Because the Maloney-Congress-96 campaign actively pursued (and received) the ACP nomination on August 29, 1996 (and incurred identifiable costs in so doing) the campaign utilized August 29, 1996 as the applicable receipt date for the designation of convention versus general election contributions. Accordingly, you will note that Schedule A to the campaign's October Quarterly Report has designated any contribution received after August 29, 1996 as being for the general election.

In support of the campaign's position I point your attention to the following relevant federal regulations:

First, 11 CFR section 110.1(b) permits individuals to contribute up to \$1,000 (and 11 CFR section 110.2(b) similarly permits multi-candidate political committees to contribute up to \$5,000) "with respect to any election". Subsection (b)(2) of 11 CFR 110.1 explains that contributions not designated in writing by the contributor are to be designated to the "next election" after the contribution is made.

Second, 11 CFR section 100.2 identifies five categories of "elections": general, primary, runoff, caucus or convention, and special. As your letter indicates, Connecticut's election law regulations require nomination via convention (and in certain instances which are not applicable here, via primary). 11 CFR section 100.2(e) states that "a caucus or convention of a political party is an election if the caucus or convention has the authority to select a nominee for federal office on behalf of that party". Moreover, 11 CFR section 100.13 defines a "political party" as "an association, committee, or organization which nominates or selects a candidate for election to any Federal office, whose name appears on an election ballot as the candidate of the association, committee, or organization".

Under these definitions, the ACP Convention held on August 29, 1996 would constitute an "election" because the convention had the authority to nominate (and did nominate) James H. Maloney to appear as its candidate on the ballot under the ACP Party line. In this regard, I reiterate that the ACP Party (along with the Democratic and Republican Parties) was entitled to (and did not need to petition for) a line on the November 5, 1996 ballot for U.S. Congress in Connecticut's Fifth District. Accordingly, the Maloney-Congress 96 campaign was required by 11 CFR 110.1(b)(2) to treat all undesignated contributions received up to and including August 29, 1996 as being for the Convention (ACP) rather than the general election. The campaign is not aware of any federal regulations or Commission interpretations requiring or permitting a different result.

Please contact me at (203) 734-7330 if I can be of further assistance in this matter.

Very truly yours,


David Dougherty
Campaign Manager



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20467

RQ-2

Iane L. Taylor, Treasurer
Barbara Kennelly for Congress
P.O. Box 3719 Central Station
Hartford, CT 06103

NOV 5 1998

Identification Number: C00145433

Reference: October Quarterly Report (7/1/96-9/30/96)

Dear Ms. Taylor:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A of your report discloses a contribution(s) which appears to exceed the limits set forth in the Act (copies attached). You should conduct a review of all of your contributions to determine the rest of the excessives that your committee may have received. As you check for additional excessives, you should review the committee's procedures for handling the receipt of contributions.

An individual or a political committee other than a qualified multicandidate committee may not make a contribution to a candidate for federal office in excess of \$1,000 per election. A qualified multicandidate committee may not make a contribution to a candidate for federal office in excess of \$5,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (e) and (k))

If the contribution(s) in question was not completely or correctly reported, you should amend your original report using the new or corrected information. If the contribution(s) exceeds the limits, you should either refund to the donor the amount in excess of \$1,000 or get the donor to redesignate and/or reattribute the excessive amount in writing. All refunds,

SENSITIVE

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

7 43:55

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL

BY OGC TO THE COMMISSION 12/7/84
10:00

MUR # 1775

DATE COMPLAINT RECEIVED

BY OGC: 9/06/84

DATE OF NOTIFICATION TO

RESPONDENT: 9/14/84

STAFF MEMBER: Stephen Levin

COMPLAINANT'S NAME: Democratic Congressional Campaign Committee
Martin D. Franks, Executive Director

RESPONDENT'S NAME: DeNardis for Congress Committee
Martin D. Anastasio, Treasurer

RELEVANT STATUTES: 2 U.S.C. § 431(1)(B)
2 U.S.C. § 441a(a)(2)
11 C.F.R. § 100.2(e)
11 C.F.R. § 104.14(d)
11 C.F.R. § 110.1(a)(1)
11 C.F.R. § 110.2(a)(1)
Conn. Gen. Stat. § 9-416

RELEVANT ADVISORY
OPINIONS:

A.O. 1982-49
A.O. 1976-58

SUMMARY OF ALLEGATIONS

In a complaint received by the Commission on September 6, 1984, the Democratic Congressional Campaign Committee, the complainant, alleged that the DeNardis for Congress Committee (the candidate's principal campaign committee) received and accepted contributions amounting to more than \$100,000 for a primary election when, in fact, no such primary election was held because DeNardis was endorsed for the general election at his party's district convention. If such an allegation was true, then the acceptance of contributions in that situation would

... violation of 2 U.S.C. § 441a(a)(2) and 11 C.F.R. § 100.1(a)(1) and § 110.2(a)(1), which permit the acceptance of contributions only "with respect to any election." The Commission argues that in such a situation, i.e., where no primary takes place consistent with state law, there should be only two, not three, elections for purposes of contribution limitations (e.g., the convention and the general election). Therefore, complainant contends that the contributions received by the respondent Committee and listed on reports filed with the Commission as being for the primary election were accepted in violation of the sections of the Act and regulations cited above and, as such, should be returned to those particular contributors, pursuant to A.O. 1982-49.

FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act (hereinafter "FECA" or the "Act") permits contributions to be made to any candidate and authorized political committee only "with respect to any election for federal office." 2 U.S.C. § 441a(a)(2) and 11 C.F.R. § 100.1(a)(1) and § 110.2(a)(1). A political party's convention is considered an election for the purpose of contribution limitations if that convention "has the authority to select a nominee for federal office on behalf of that party." 2 U.S.C. § 441(a)(3) and 11 C.F.R. § 100.2(e). The determination as to whether or not a convention has the requisite authority is a question of state law. In Connecticut, state law invests party

conventions with such authority. Conn. Gen Stat. § 9-416. Thus, in Connecticut, a party convention is an election for the purpose of contribution limitations. A.O. 1976-58.

Since the party convention in this case is considered to be an election, the possibility exists that there could be three separate elections in Connecticut for purposes of contribution limitations (the convention, the primary and the general election). However, in this matter, no primary election was held since DeNardis was endorsed for the general election at his party's district convention without any significant opposition. Nevertheless, on reports filed with the Commission, the DeNardis for Congress Committee ("DCC", listed contributions as being accepted for the primary election. It is on the basis of that information that the complaint in this matter was filed.

An investigation of the reports filed by DCC with the Commission and information contained in the response received from DCC indicates that no excessive contributions violations occurred in this matter. There were no instances of contributors providing DCC with contributions in excess of the maximum amount allowable for the two elections which were actually scheduled, the convention and the general election. Further, using the date of the convention (July 14, 1984) as the date of the primary election, a review of DCC's reports revealed that no excessive contributions resulted when the redesignated contributions were added to the contributions for the general election which had been given after the actual date of the

September 11, 1984.

What did occur here, however, was an initial series of reporting errors by DCC in reports of contributions filed with the Commission. Those errors resulted from the fact that in those reports DCC listed all contributions received after the date of the convention but prior to what would have been the date of the primary (had it been held) as being for the primary rather than the general election (except for those contributions which were specifically designated for the general election; those contributions were correctly reported).

After DCC received notification of the filing of this complaint, they amended their reports so that they now show all contributions received after the date of the convention (i.e., those formerly listed as being for the primary) as being contributions for the general election. DCC's initial reporting error was a violation of 11 C.F.R. § 104.14(d), which holds the treasurer of a political committee "personally responsible" for the accuracy of any information contained in reports filed under the Act. It should also be noted, however, that DCC has acknowledged this error and has amended its reports accordingly as to bring them into compliance with the Act.

Given the nature of the violation which occurred and the prompt efforts made to remedy it, this Office recommends that the Commission find reason to believe that DCC and Martin Anastasio, its treasurer, violated 11 C.F.R. § 104.14(d) by incorrectly reporting contributions received, but take no further action. Further, it is recommended that the file be closed in this matter.

RECOMMENDATIONS

1. Find reason to believe that DCC and Martin Anastasio, as treasurer violated 11 C.F.R. § 104.14(d) and take no further action.
2. Approve attached letters.
3. Close the file.

Charles W. Steele
General Counsel

By: 

Kenneth A. Gross
Associate General Counsel


Date

Attachments

Letter to Respondent
Letter to Complainant